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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,918	07/24/2003	David P. Schneider	H-560-CIP	2407

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EXAMINER

BASINGER, SHERMAN D

ART UNIT PAPER NUMBER

3617

DATE MAILED: 07/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,918

Applicant(s)

SCHNEIDER, DAVID P.

Examiner

Sherman D. Basinger

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/24/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because in line 5 of the abstract, "material" is misspelled. Correction is required. See MPEP § 608.01(b).
2. On page 1 of the specification it should be stated that the parent application, of which the instant application is a continuation in part, is now abandoned.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 2 176 732 A.

GB 732 discloses a shark repellent apparatus comprising:

a) a pressurized repellent material containment and dispensing device having a proximal end and a distal end 1;
and

b) dispensing means 151 for serially dispensing multiple applications of repellent material, disposed at said proximal end of said containment and dispensing device.

The shark repellent material is disclosed on page 2, lines 40-45.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iler in view of GB 2 176 732 A.

Iler discloses a rescue flotation buoy 10 which can contain a knife.

GB 732 discloses a pressurized repellent material containment and dispensing device 1 having a proximal end and a distal end for serially dispensing multiple applications of repellent material, disposed at said proximal end 151 of said containment and dispensing device.

Iler does not disclose a containment and dispensing device being detachably integrated with said rescue flotation buoy 10.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide the buoy 10 of Iler with a knife similar to that of GB 732. Motivation to do so is found in the fact that buoy 10 of Iler can contain a knife and in that the knife of GB 732 can be used to repel sharks.

GB 732 discloses a shark repellent material in container 1-see page 2, lines 40-45.

6. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iler and GB 732 as applied to claim 1 above, and further in view of Schneider.

The shark repellant material used by GB 732 is not sodium lauryl sulfate. Schneider, discloses the use of such material as a shark repellant. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to use as the shark material in the knife provided to Iler in view of GB 732 sodium lauryl sulfate in view of Schneider using such material as a shark repellant. That this chemical is harmless to humans provides ample motivation to use it as a repellant.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over GB 2 176 732 A in view of Schneider.

The shark repellant material used by GB 732 is not sodium lauryl sulfate. Schneider, discloses the use of such material as a shark repellant. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to use as the shark material in the knife provided to Iler in view of GB 732 sodium lauryl sulfate in view of Schneider using such material as a shark repellant. That this chemical is harmless to humans provides ample motivation to use it as a repellant.

8. Claims 7, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sabo in view of Kea and GB 2 176 732 A.

Sabo discloses a flexible flotation vest with a pocket or container for shark repellent-see column 5, lines 40-45. Sabo does not disclose his vest as being auto inflating. Kea discloses a flotation vest which is auto inflating and which provides an area 34 for a shark repellent. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to use auto inflation structure similar to that of Kea with the vest of Sabo. Motivation to do so is to have the vest of Sabo inflate automatically when the pilot hits the water incase the pilot is unable to activate inflation of his vest.

While Sabo discloses that his vest has a container or pocket for shark repellent, Sabo does not disclose a pressurized repellent material containment and dispensing device having a proximal end and a distal end, said containment and dispensing device being detachably connected to said flotation vest; dispensing means for serially dispensing multiple applications of repellent material; and a shark repellent material disposed in said containment and dispensing device.

Note container 1 of GB 732.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide in the pocket or container for shark repellent of Sabo a knife similar to that of GB 732. Motivation to do so is that not only will the knife provide shark repellent, but it will provide a means for performing other forms of survival work.

With regard to claim 8, the flexible tube will be as 15 of GB 732, and the nozzle will be as 151 of GB 732.

With regard to claim 10, the grip means is as 413 of GB 732 and the dispensing valve means is as 4123 and 4124 of GB 732.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sabo, Kea and GB 732 as applied to claim 7 above, and further in view of Schneider.

The shark repellant material used by GB 732 and Sabo is not sodium lauryl sulfate. Schneider, discloses the use of such material as a shark repellant. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to use as the shark material in the knife provided to Sabo in view of GB 732 sodium lauryl sulfate in view of Schneider using such material as a shark repellant. That this chemical is harmless to humans provides ample motivation to use it as a repellant.

Conclusion


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ruelle et al is cited to show the knife 32 used with the survival suit. Hsu is cited to show the release mechanism for shark repellant-see column 2, line 19.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 703-308-1139. The examiner can normally be reached on M-F (6:00-2:30 ET).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sherman D. Basinger
Primary Examiner
Art Unit 3617

7/16/04

sdb
7/16/04